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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,675	10/29/2003	Alison D. Wilson	20005/10001	8404
34431 7590 01/16/2008 HANLEY, FLIGHT & ZIMMERMAN, LLC 150 S. WACKER DRIVE SUITE 2100 CHICAGO, IL 60606			EXAMINER WALSH, DANIEL I	
			ART UNIT 2887	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/697,675	<b>Applicant(s)</b> WILSON, ALISON D.	
	<b>Examiner</b> Daniel I. Walsh	<b>Art Unit</b> 2887	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Receipt is acknowledged of the Amendment received on 10-31-07.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Namisniak (US 5,711,160)

Re claim 1, Namisniak teaches a housing, an informational area associated with the housing, the informational area having a first section associated with a first food storage device and a second section associated with a second food storage device, wherein the first section is separate from the second section, and wherein the information includes a number of fields in which information related to food items in the first and second food storage devices may be recorded; a food storage guideline informational item associated with the housing and representing time durations for which particular food items may be stored without spoiling (FIG. 6, where filled slots 20 are interpreted to make up the informational area, each listing filling a slot is separate from another, and hence can relate to refrigerator and freezer items (separately) and the slots have a number of fields (item/expiration time/identifier), and a food storage guideline informational item associated with the housing and representing time durations for

which particular food items may be stored without spoiling is broadly interpreted to be met by the display 28' working with the microprocessor (col 11, lines 16+) which is used to display the lifetime/timing information for all item slots.

Re claim 2, an item field has been discussed above.

Re claim 3, a temporal display representing a current calendar date is taught (col 7, lines 5+) which teaches the display of the current data for the FIG. 6 embodiment.

Re claim 4, the informational area includes magnetic tabs 12, which are writable via dry erase marker 23. Though silent to the tab being dry erase board material, the Examiner notes it would have been an obvious expedient to do so, to enable acceptable writing and erasing via the dry erase marker.

Re claim 6, as discussed above, the devices can include a refrigerator, freezer, or pantry.

Re claim 7, the housing includes features for mounting (Velcro/magnetic) (col 2, lines 14+). The Examiner has interpreted that the housing has a compartment to store the food storage guideline information item, since the item is housed within the device/housed within it.

3. Claims 1-4 and 6-7 are alternatively rejected under 35 U.S.C. 102(b) as being anticipated by Namisniak, as discussed above.

Claims 1-4 and 6-7 are alternatively rejected via the FIG. 2 embodiment of Namisniak where, re claim 1, Namisniak teaches a housing, an informational area associated with the housing, the informational area having a first section associated with a first food storage device and a second section associated with a second food storage device, wherein the first section is separate from the second section, and wherein the informational area includes a number of fields in which information related to food items in the first and second food storage devices may be

recorded; a food storage guideline informational item associated with the housing and representing time durations for which particular food items may be stored without spoiling (FIG. 2, where filled slots 20 are interpreted to make up the informational area, each listing filling a slot is separate from another, and hence can relate to refrigerator and freezer items (separately) and the slots have a number of fields (item/expiration time/identifier), and a food storage guideline informational item associated with the housing and representing time durations for which particular food items may be stored without spoiling is broadly interpreted to be met by the display 28 which when operating together with tab 12 in an expiration mode, teaches an item is understood to not be beyond its useful life with the date flashed on the display 28 is before the date written on the tab (col 10, lines 48+).

Re claim 2, an item field has been discussed above.

Re claim 3, the Examiner notes that Namisniak teaches that dates are flashed (col 10, lines 48+), and hence this is interpreted as a temporal display representing a current calendar date.

Re claim 4, the informational area includes magnetic tabs 12, which are writable via dry erase marker 23. Though silent to the tab being dry erase board material, the Examiner notes it would have been an obvious expedient to do so, to enable acceptable writing and erasing via the dry erase marker.

Re claim 6, as discussed above, the devices can include a refrigerator, freezer, or pantry.

Re claim 7, the housing includes features for mounting (Velcro/magnetic) (col 2, lines 14+). The Examiner has interpreted that the housing has a compartment to store the food storage guideline information item, since the item is housed within the device/housed within it.

4. Claims 1, 2, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Namisniak, as discussed above.

Claims 1, 2, 6, and 7 are taught via the FIG. 7 embodiment where, re claim 1, Namisniak teaches a housing, an informational area associated with the housing where the informational area has a first section associated with a first food storage device and a second section associated with a second storage device, wherein the first section is separate from the second section, and wherein the information area includes a number of fields in which information related to food items in the first and second food storage devices may be recorded, and a food storage guideline informational item associated with the housing and representing time durations for which particular food items may be stored without spoiling (FIG. 7, abstract, which teaches that a list, prestored in memory including the names of the most common foods and their lifetimes is provided for at least three locations (interpreted as an informational area), that a number of fields are taught (at least the item name, color/identifier, and expiration), and that the lists are stored separately in memory). The informational area taught above is interpreted to include a food storage guideline information item associated with it (and thus associated with the housing), since the informational area represents lifetimes of the items stored, and hence is interpreted to include a food storage guideline informational item/data, especially as the claims neither preclude such an interpretation nor do they require a separate paper item, for example, as the limitation only requires an item associated with the housing that represents time durations, and hence the limitations are interpreted to be met.

Re claim 2, as discussed above, as the data list includes names of items and expiration dates, it is interpreted to teach the inclusion of one or more of a current date field, an item field, a container/owner field, and an expiration date field. An item field is shown (FIG. 7).

Re claim 6, as discussed above, the devices can include a refrigerator, freezer, or pantry.

Re claim 7, the housing includes features for mounting (Velcro/magnetic) (col 2, lines 14+). The Examiner has interpreted that the housing has a compartment to store the food storage guideline information item, since the item is housed within the device/housed within it.

5. Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Namisniak, as discussed above, in view of Ogasawara (US 2002/0016739).

The teachings of Namisniak have been discussed above (re FIG. 7).

Namisniak is silent to a current calendar date.

Ogasawara teaches a current calendar date (FIG. 7).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Namisniak with those of Ogasawara.

One would have been motivated to do this to provide additional information to the user, such as current dates, and also to provide general information to a user regarding time/date, purchases/expiration, etc. Providing dates on electronics is an obvious expedient to provide users with information that maybe useful/related to expirations and other scheduling.

#### ***Additional Remarks***

6. The Examiner notes that printed matter, such as guideline information item or pamphlet, that describes food spoilage, that does not have a functional relationship between the indicia and

the structure of the apparatus itself, is not patentably distinct (see *In re Gulack and Ngai*). Accordingly, prior art that discloses different printed matter, is interpreted to read on the claims, since printed matter is not patentable when there is not a functional relationship established. The Examiner wishes to convey such information now, to reduce any confusion that may occur later. For purposes of Examination, the claims are not limited to the informational item being printed, but the Examiner is bringing this point up, as it appears the specification shows the item as a printed item.

#### ***Response to Arguments***

7. Applicant's arguments filed have been fully considered but they are not persuasive. The Examiner has cited multiple embodiments (above) that teach an informational area can have separate sections/listings for different items of different storage devices.
8. Additionally, the Examiner notes that the open ended claim language of at least claim 1, for example "comprising....an informational area" does not limit the claim to only 1 informational area, if each information area is operable to represent time durations for storage of items without spoiling, which the prior art is believed to teach.

#### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (See attached PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel I. Walsh whose telephone number is (571) 272-2409. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Paik can be reached on (571) 272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel I Walsh  
Examiner  
Art Unit 2876

A handwritten signature in black ink, appearing to read 'D. Walsh', with a stylized, flowing script.

DANIEL WALSH  
PRIMARY EXAMINER